## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RONALD L. BRICKER,	) 2:08cv1053
D1 : 4'CC	,
Plaintiff,	) Electronic Filing
v.	<ul><li>) Judge David Stewart Cercone /</li><li>) Magistrate Judge Lisa Pupo</li></ul>
CAPT. GEORGE A. KUZILLA, Pennsylvania State	) Lenihan
Police Troop D; JOHN S. SHAFFER, Executive	)
Deputy Secretary; JUDITH VIGLIONE, Director;	)
DR. JEFFREY A. BEARD, Secretary; WILLIAM	)
D. SPRENKLE, Executive Secretary; JAMES	)
BARNACLE, Director; DAVID S. NOVITSKY,	)
Deputy Director; MICHAEL W. HORLOW,	)
Superintendent; DEPUTY MAHLEMISTER;	)
CAPT. RUSSELL WILSON, Security; LT.	)
GIDDINGS, Officer; CO. EXLEY, Guard; CO.	)
WALMSLEY, Guard; CO. WOOD, Guard; Mr.	)
APPLEGARTH, CCII; WILLIAM (BILL) WOODS,	)
Unit Manager; SGT. WALKER, Official;	)
RANDALL PEEVEY, Inmate; THOMAS	)
MILLIRON, Inmate; THOMAS W. CORBETT, JR.,	)
Attorney General; and ALL JOHN AND JANE	)
DOE'S,	)
	)
Defendants.	)

## MEMORANDUM ORDER

The above captioned case was initiated on July 29, 2008, by the filing of a Motion to Proceed In Forma Pauperis (Doc. No. 1) accompanied by a Complaint. It was originally assigned to Magistrate Judge Lisa Pupo Lenihan, but was reassigned to Judge David S. Cercone on October 7, 2008, upon the filing of an appeal of a Magistrate Judge ruling. The case was referred back to Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules.

The Magistrate Judge's Report and Recommendation (Doc. No. 77), filed on August 31, 2009, recommended that Commonwealth Defendants' Motion to Dismiss (Doc. No. 54) be granted with respect to Defendants Shaffer, Viglione, Beard, Sprenkle, Barnacle, Novitsky, Horlow, Mahlemister, Wilson, Giddings, Exley, Walmsley, Wood, Applegarth, Woods, and Walker. It further recommended that Commonwealth Defendants' Motion to Dismiss be denied with respect to Defendant Kuzilla and that dismissal be granted, sua sponte, to Defendants Corbett and "All John and Jane Doe's". The Plaintiff was served at his address of record, FCI Houtzdale, P.O. Box 1000, Houtzdale, PA 16698-1000 and counsel for the Defendants were served electronically. The parties were advised they were allowed ten (10) days from the date of service to file written objections to the report and recommendation. Plaintiff filed a Motion for Extension of Time to Files Objections (Doc. No. 81) on September 11, 2009. The Court granted the Plaintiff an extension and established a new deadline of September 28, 2009, for objections to be filed. Plaintiff's objections were filed on September 29, 2009, and, after review, are deemed to be without merit. Therefore, upon review of the pleadings and documents in the case, together with the report and recommendation and objections thereto, the following order is entered:

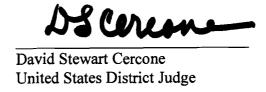
AND NOW, this day of September, 2009,

IT IS HEREBY ORDERED that Commonwealth Defendants' Motion to Dismiss (Doc. No. 54) is **GRANTED** with respect to Defendants Shaffer, Viglione, Beard, Sprenkle, Barnacle, Novitsky, Horlow, Mahlemister, Wilson, Giddings, Exley, Walmsley, Wood, Applegarth, Woods, and Walker.

IT IS FURTHER ORDERED that Commonwealth Defendants' Motion to Dismiss is **DENIED** with respect to Defendant Kuzilla.

IT IS FURTHER ORDERED Defendants Corbett and "All John and Jane Doe's" are DISMISSED.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 77) of Magistrate Judge Lenihan, dated August 31, 2009, is adopted as the opinion of the court.



cc: Honorable Lisa Pupo Lenihan United States Magistrate Judge

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